

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
	)	Criminal No. 05-10102-JLT
v.	)	
	)	
	)	
JOHN BRUENS, MARY STEWART,	)	
MELISSA VAUGHN AND	)	
MARK SIROCKMAN,	)	
Defendants.	)	

**MOTION FOR AN ORDER EXCLUDING TIME  
FROM JULY 13, 2006 UNTIL OCTOBER 17, 2006  
PURSUANT TO THE SPEEDY TRIAL ACT  
(ASSENTED TO)**

Comes now the United States, by and through its attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts and Assistant United States Attorney Mary Elizabeth Carmody, and move this Court to enter an order excluding time in this case from July 13, 2006 until October 17, 2006. In support of this motion, the government states the following:

(1) On April 14, 2005, the grand jury returned an 8 count indictment, charging the defendants with one count of conspiracy to defraud the United States in violation of Title 18 United States Code, Section 371, and seven counts of offering or paying illegal remunerations in connection with their employment at Serono, Inc., in order to induce physicians to prescribe the drug Serostim, which is approved for the treatment of AIDS wasting, in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A), and Title 18, United States Code, Section 2. This is a complex health care fraud case.

(2) The defendants appeared before the Court jointly on May 2, 2005 for their initial

appearances and arraignments in this case. The defendants were released from custody pending trial. An initial status conference was held on June 7, 2005. Thereafter, interim status conferences have been held on September 13, 2005, December 19, 2005 and March 6, 2006. By the Local Rules, prior orders of the Court and pursuant to the agreement of counsel for each of the defendants, the time period from May 2, 2005 until July 13, 2006 has been excluded for Speedy Trial purposes.

(3) A final status conference was held on July 13, 2006, during which the Court accepted the parties' proposed schedule for filing substantive motions in this case: the defense will file their motions by September 19, 2006 and the Government will respond by October 17, 2006. The parties therefore requested that the time from July 13, 2006 until October 17, 2006 be excluded for Speedy Trial purposes.

(4) The parties are in agreement that the ends of justice would be served by this delay and that the delay is necessary to avoid a miscarriage of justice, and that the denial of this motion would, despite the exercise of due diligence, deny the parties the reasonable time necessary for effective pre-trial and trial preparation.

Wherefore, the United States files this assented to motion for the entry of a further order excluding time from July 13, 2006 until October 17, 2006, pursuant to the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(I), 3161(h)(8)(B)(ii), and 3161(h)(8)(B)(iv).

A proposed order is attached.

Respectfully submitted,

UNITED STATES OF AMERICA

MICHAEL J. SULLIVAN  
United States Attorney

By: */s/ Mary Elizabeth Carmody*

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**Certificate of Service and Local Rule 7.1 Certification**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF). All counsel or record for the defendants have indicated their assent to this motion.

*/s/ Mary Elizabeth Carmody*

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MARY ELIZABETH CARMODY  
Assistant United States Attorney

Date: July 20, 2006

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
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JOHN BRUENS, MARY STEWART,	)	
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MARK SIROCKMAN,	)	
Defendants.	)	

**ORDER**

This matter is before the Court on the Assented to Motion of the United States to exclude time pursuant to the Speedy Trial Act, 18 U.S.C. § 3161. Having reviewed the matter, the Court finds as follows:

(1) On April 14, 2005, the grand jury returned an 8 count indictment, charging the defendants with one count of conspiracy to defraud the United States in violation of Title 18 United States Code, Section 371, and seven counts of offering or paying illegal remunerations in connection with their employment at Serono, Inc., allegedly to induce physicians to prescribe the drug Serostim, which is approved for the treatment of AIDS wasting, in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A), and Title 18, United States Code, Section 2. This is a complex health care fraud case.

(2) The defendants appeared jointly on May 2, 2005 for their initial appearances and arraignments. The defendants were released pending trial.

(3) At the initial status conference on June 7, 2005, the parties agreed that the case is complex, in that the government's proof consists of a large number of documents and witnesses. Discovery involves numerous documents contained in approximately 1000 boxes. Defense

counsel required sufficient time to examine the discovery and to prepare for filing motions and thereafter to prepare for trial. The parties agree that the time period from May 2, 2005 until July 13, 2006 has been excluded for Speedy Trial purposes by Local Rules and prior Orders of this Court.

(4) At the final status conference on July 13, 2006, all counsel agreed that the time for filing of motions by the defense and the Government's response to those motions also be excluded for Speedy Trial purposes, *i.e.*, from July 13, 2006 until October 17, 2006.

(5) The ends of justice warrants the exclusion of this period of time and outweigh the best interest of the public and the defendant in a speedy trial.

THEREFORE, IT IS HEREBY ORDERED that for the reasons set forth above, that for purpose of computing the time under the Speedy Trial Act of 1974 within which the trial must commence, the period from May 2, 2005 until October 17, 2006, inclusive, has been and shall be deemed an excludable period pursuant to 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(I), 3161(h)(8)(B)(ii), and 3161(h)(8)(B)(iv).

Dated: \_\_\_\_\_

\_\_\_\_\_  
MARIANNE B. BOWLER  
UNITED STATES MAGISTRATE JUDGE